

## LEGISLATIVE MINUTES

### MARLBORO TOWNSHIP COUNCIL MEETING

January 21, 2010

The Marlboro Township Council held its regularly scheduled Meeting on January 21, 2010 at 8:00pm at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President LaRocca opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 11, 2010; mailed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Council Vice President Marder, Councilwoman Mazzola, Councilman Metzger and Council President LaRocca. Absent: Cantor.

Also present were: Mayor Jonathan L. Hornik, Louis Rainone Esq., Business Administrator Alayne Shepler, Deputy Clerk Deborah Usalowicz and Clerk's Assistant Gerda Schneider.

Council Vice President Marder moved that the minutes of December 10, 17, and 18, 2009 be approved. This motion was seconded by Council President LaRocca and the minutes were passed on a roll call vote of 2 - 0 in favor with Councilwoman Mazzola and Councilman Metzger abstaining. (Absent: Cantor).

The following Res. # 2010-44/Ord. # 2010-1 (Amending Chapter 284 - Recycling) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor.

RESOLUTION # 2010-44

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE #2010-1

AN ORDINANCE DELETING CHAPTER 284 ENTITLED, "RECYCLING", IN ITS ENTIRETY AND CREATING AND ESTABLISHING A NEW CHAPTER 284 ENTITLED, "RECYCLING", TO SET FORTH A REVISED MANDATORY PROGRAM FOR THE SEPARATION AND COLLECTION OF RECYCLABLE MATERIALS IN ACCORDANCE WITH THE REQUIREMENTS OF THE NEW JERSEY MANDATORY SOURCE SEPARATION AND RECYCLING ACT, N.J.S.A 13:1E-99.11 ET SEQ. AND THE 2009 UPDATE TO THE MONMOUTH COUNTY SOLID WASTE MANAGEMENT PLAN

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on February 4, 2010 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2010-1

AN ORDINANCE DELETING CHAPTER 284 ENTITLED, "RECYCLING", IN ITS ENTIRETY AND CREATING AND ESTABLISHING A NEW CHAPTER 284 ENTITLED, "RECYCLING", TO SET FORTH A REVISED MANDATORY PROGRAM FOR THE SEPARATION AND COLLECTION OF RECYCLABLE MATERIALS IN ACCORDANCE WITH THE REQUIREMENTS OF THE NEW JERSEY MANDATORY SOURCE SEPARATION AND RECYCLING ACT, N.J.S.A 13:1E-99.11 ET SEQ. AND THE 2009 UPDATE TO THE MONMOUTH COUNTY SOLID WASTE MANAGEMENT PLAN

WHEREAS, proper management of solid waste is an important matter of public health and safety; and

WHEREAS, the source separation and recovery of certain recyclable materials will serve the public interest by conserving energy and natural resources, and by reducing waste disposal expenses; and

WHEREAS, in accordance with the requirements of the New Jersey Mandatory Source Separation and Recycling Act (N.J.S.A. 13:1E-99.11 et seq.) and the 2009 Update to the Monmouth County Solid Waste Management Plan, the Township of Marlboro is required to update and

amend its existing municipal rules and regulations as to the separation, storage, collection and recovery of designated recyclable materials within the Township of Marlboro.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Chapter 284 of the Code of the Township of Marlboro, entitled, Recycling, be and is hereby deleted in its entirety, and a new Chapter 284 entitled, Recycling, of the Code of the Township of Marlboro, be and is hereby created and established to set forth a revised mandatory program for the separation and collection of recyclable materials in accordance with the requirements of The New Jersey Mandatory Source Separation and Recycling Act, N.J.S.A 13:1E-99.11 et seq. and the 2009 update to the Monmouth County Solid Waste Management Plan as follows:

§284-1. Source Separation of Recycleable Materials.

A. It shall be mandatory for all persons who are owners, lessees and occupants of residential properties, of business and industrial properties, and of private or public and government institutions and buildings, to separate newspaper, corrugated cardboard, clean mixed paper, aluminum cans, tin and bi-metal cans, glass bottles and jars, and pourable plastic bottles ("designated recyclables"), from all other solid waste produced by such residences and establishments, for the separate collection and ultimate recycling of such materials.

(1) Newspaper shall mean and include paper of the type commonly referred to as newsprint, and includes any inserts which are normally included in the newspaper. Specifically excluded are any pages of the newspaper used for household projects and crafts, such as painting or paper mache projects, or used for cleanup of pet waste.

(2) Corrugated cardboard shall mean layered cardboard including a waffled section between the layers, of the type commonly used to make boxes and cartons. Specifically excluded are waxed cardboard and any cardboard contaminated by direct contact with food, such as pizza boxes.

(3) Clean mixed paper shall mean high grade bond paper, mixed office and school papers, such as stationary, construction paper and writing tablets, including computer printouts, magazines, gift wrapping paper, soft cover books, junk mail and single layer cardboard (chipboard). Specifically excluded are carbon papers, hard cover books (unless cover and binder are removed), paper cups

and plates, food wrappers or any other paper contaminated by direct contact with food products, and paper products used for personal hygiene, such as tissues.

(4) Aluminum cans shall mean all disposable cans made of aluminum used for food or beverages. Specifically excluded are aluminum foils, pie tins, trays, cookware and other aluminum products.

(5) Tin and bi-metal cans shall mean all disposable cans made of tin, steel or a combination of metals including, but not limited to, containers commonly used for food products. Specifically excluded are cans which contain toxic products, such as paints and oils.

(6) Glass bottles and jars shall mean transparent or translucent containers made from silica or sand, soda ash and limestone, used for the packaging or bottling of various products. Specifically excluded are dishware, light bulbs, window glass, ceramics and other glass products.

(7) Pourable plastic containers shall mean plastic bottles where the neck is smaller than the body of the container, and is limited to plastic resin type #1 PET and plastic resin type #2 HDPE. Specifically excluded are other resin types (#3 through #7) and non-bottle plastic containers such as margarine tubs and other consumer items and packages, such as film plastics, blister packaging, boxes, baskets, toys and other products.

B. Residences, businesses and institutions provided with recyclables collection service by Township forces or through Township contract shall place all designated recyclables in the appropriate containers at curbside or other area(s) in the manner and schedule as regularly published and distributed by the Township.

C. Any multi-family complex, business or institution not provided recyclables collection service by Township forces or through Township contract shall be responsible for arranging the appropriate separation, storage, collection and ultimate recycling of all designated recyclables.

D. Any multi-family complex, business or institution which is not provided recyclables collection service by Township forces or through Township contract shall provide the Township with, at a minimum, an annual report describing arrangements for both solid waste and recyclables collection services, including the size, number and location of storage containers, frequency of pickup

service, the name and address of any contractor hired to provide such service, and phone and other contact information for the contractor.

E. Leaves shall be kept separate from other vegetative waste, and shall only be placed for collection in the manner and schedule as shall be published and distributed by the Township. Grass clippings shall not be placed with other materials for solid waste collection. This requirement shall not prohibit any person or establishment from making arrangements to collect leaves and grass directly from their property through their own efforts or via contract with a landscape service or other appropriate company, for direct transportation to a permitted recycling operation.

F. The following bulky recyclables shall not be placed with solid waste at the curbside or in containers provided for waste collection and transportation to a disposal facility: concrete, asphalt, brick, block, tree stumps, tree limbs over three inches (3') in diameter, metal appliances or bulk metal items larger than one cubic foot and/or heavier than five (5) pounds.

G. Automotive and other vehicle or wet cell batteries, used motor oil and anti-freeze shall not be disposed as solid waste. Such items are to be kept separate from other waste materials and recyclables, and brought to local service stations, scrap yards, or publicly-operated recycling facilities designed and permitted to handle such products.

H. Common, non-rechargeable dry cell batteries, commonly labeled A, AA, AAA, C, D and 9-Volt, may be disposed with regular municipal solid waste. However, rechargeable dry cell and button batteries still contain significant amounts of various toxic metals, including mercury, and shall be separated and brought to retail outlets or publicly-operated recycling facilities providing specific arrangements for the proper packaging and shipment of rechargeable and/or button batteries to appropriate processing facilities.

I. Computers, computer monitors and other related electronic hardware, as well as analog and digital televisions, are prohibited from being placed with other solid waste for disposal. These and other electronic devices shall be kept separate and brought to retail outlets or publicly-operated recycling facilities providing specific arrangements for shipment of these items to appropriate processing facilities.

§284-2. Ownership of Recyclables; Scavenging Prohibited.

A. All designated recyclables become the property of the Township and/or the contracted collector once placed at the curbside, in a container provided by the contractor, or brought to and accepted at the Township Recycling Center.

B. It shall be a violation of this Chapter for any unauthorized person to pick up or cause to be picked up from the curbside or the Township Recycling Center, any recyclable materials as defined herein. Each such unauthorized pick-up shall constitute a separate and distinct offense.

C. Notwithstanding anything herein to the contrary, any person may donate or sell self-generated recyclable materials to any person, partnership or corporation, whether or not they are operating for profit. The person, partnership or corporation, however, shall not pick up the recyclable materials at curbside or from the Township Recycling Center.

#### §284-3. Liquid and Hazardous Waste Exclusions.

A. No liquids of any type shall be placed with recyclables, or with solid waste for collection and disposal.

B. No chemicals, liquid paints, pesticides, herbicides, reactive polishes or cleansers, cleaning or automotive products, or other hazardous wastes shall be placed with recyclables, or with solid waste for collection and disposal.

#### §284-4. Provision and Labeling of Recycling Containers.

A. All apartment and other multi-family complexes, businesses, schools and other public or private institutions shall provide separate and clearly marked containers for use by residents, students, employees, customers or other visitors, for trash and the various types of recyclables, as appropriate.

B. Any company or agency providing dumpsters, roll off or other containers to any apartment or other multi-family complex with shared disposal and recycling areas, or to any business, school or other institution, or for any construction/demolition project, shall clearly mark such container for trash or for specific recyclables, as may be appropriate.

#### §284-5. Debris Management Plan for Construction Permits.

A. Marlboro Township shall issue construction and demolition permits only after the applicant has provided a Debris Management

Plan identifying the estimated number and types of containers to be used for the handling of all solid wastes and recyclables generated during the project, and arrangements for the proper disposition of the generated materials.

B. A refundable deposit of \$50.00 to \$1,000.00 shall be submitted with the Debris Management Plan, which will be returned after completion of the project and submittal of appropriate records documenting the quantity and disposition of solid wastes and recyclables. Inadequate or incomplete documentation may result in the forfeiture of some or all of the required deposit.

#### § 284-6 Reporting requirements.

A. All individuals or entities collecting recyclable material within the Township of Marlboro must be registered with the county. Each such individual or entity shall file a quarterly report with the Recycling Coordinator, which shall be signed by an officer of the company, within thirty (30) days of the end of each quarter, which shall include the quantities and destination of each recyclable material which has been collected from Marlboro Township residents, businesses and institutions. The destination of the recyclable material(s) must be approved by the county. Additionally, such individual or entity shall, within thirty (30) days of the end of each year, file an annual report with the Recycling Coordinator, which shall be signed by an officer of the company, indicating the total quantities of each recyclable material which have been collected over the year from Marlboro Township residents, businesses and institutions.

B. All recycling facilities receiving recyclable materials from residents, businesses, institutions and/or multifamily housing developments within the township must be registered with the county. Each such facility shall file a quarterly report with the Recycling Coordinator, which shall be signed by an officer of the receiving facility, within thirty (30) days of the end of each quarter showing the quantities of each recyclable material which originated from Marlboro Township. Additionally, all such facilities shall, within thirty (30) days of the end of each year, file an annual report with the Recycling Coordinator, which shall be signed by an officer of the receiving facility, indicating the total quantities of each recyclable material which have been collected over the year from Marlboro Township residents, businesses and institutions.

#### §284-7. Appointment and Duties of Recycling Coordinator.

A. The position of Recycling Coordinator is hereby created and established within the Township of Marlboro.

B. The duties of the Recycling Coordinator shall include, but are not limited to: the preparation of annual or other reports as required by state and county agencies regarding local solid waste and recycling programs, reviewing the performance of local schools and Township agencies in conducting recycling activities, periodic review of local residential and business recycling practices and compliance, review and recommendation on local subdivision and site plan submittals and local construction and demolition projects for appropriate waste disposal and recycling provisions, reports to the Township Council on the implementation and enforcement of the provisions of this ordinance, and such other reports and activities as may be requested by the Township Council.

C. The Recycling Coordinator shall be required to comply with the Certification Requirements for Municipal Recycling Coordinators, as established by the State of New Jersey. The Recycling Coordinator shall have completed or be in the process of completing the requirements for certification as a "Certified Recycling Professional" (CRP) no later than January 13, 2012, as required by the New Jersey Recycling Enhancement Act, P.L. 2007, c.311.

#### §284-8. Enforcement.

A. The duly appointed Township Recycling Coordinator, the Monmouth County Health Department, the Marlboro Code Enforcement Officer and/or the Marlboro Township Division of Police are hereby jointly and severally empowered to inspect solid waste and recycling arrangements and compliance at local residences, businesses, schools and institutions, and to enforce the provisions of this Ordinance, by issuance of warnings, notices, summonses and complaints. A typical inspection may consist of sorting through containers and opening bagged solid wastes to detect the presence of recyclable materials.

B. Those persons authorized to inspect pursuant to this Section, shall issue a warning rather than a summons following an initial inspection, with a follow up visit to determine compliance within a stated period of time.

#### §284-9. Violations and Penalties.



A. Violation or non-compliance with any of the provisions of this Chapter, or of the rules and regulations promulgated hereunder, shall be punishable by a fine as follows:

- (1) for a first offense - a written warning shall be issued by the Recycling Coordinator;
- (2) for a second offense, a fine of \$25.00 to \$100.00 shall be imposed by the Municipal Court; and
- (3) for a third offense a fine of \$50.00 to \$250.00 shall be imposed by the Municipal Court; and
- (4) for fourth or subsequent offense a fine of \$250.00 to \$1,500.00 shall be imposed by the Municipal Court, and/or the performance of community service at the direction of the Recycling Center, for a period not to exceed ninety (90) days.

B. Each day that such violation or neglect is committed or permitted to continue shall constitute a separate offense and be punishable as such.

C. Fines levied and collected in Municipal Court pursuant to the provisions of this Ordinance shall be deposited into the Township Recycling Trust Fund. Monies in the Township Recycling Trust Fund shall be used for the expenses of the Township recycling program.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that if any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

Res. # 2010-45/Ord. # 2010-2 (Amending Chapter 265 - Recreation Fees & Policies) and Res. # 2010-46/Ord. # 2010-3 (Amending Chapter 171 Fees - Various) were tabled to the February 4<sup>th</sup> agenda. Council members discussed the proposed fee increases.

The following Res. # 2010-48 (Authorizing CME - Improvements to Union Hill Road - Phase II) was introduced by reference, offered by Councilwoman Mazzola, seconded by Council Vice President Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-48

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE  
PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES  
AND THE TOWNSHIP OF MARLBORO FOR ENGINEERING SERVICES IN  
CONNECTION WITH THE IMPROVEMENTS TO UNION HILL ROAD -  
PHASE II, MARLBORO TOWNSHIP, NEW JERSEY

WHEREAS, the Township was awarded a grant in the amount of \$225,000.00 from the New Jersey Department of Transportation Municipal Aid Program for improvements to Union Hill Road from Willow Lane to Tennent Road, known as the "Improvements to Union Hill Road - Phase II" (the "Project") and is in need of professional engineering services for the survey, design and bid phase of the Project (collectively, the "Professional Services"); and

WHEREAS, the Township of Marlboro and CME Associates have previously entered into a Professional Services Contract, awarded under a non-fair and open process and seeks to amend such Contract to expand the scope of services to include the Professional Services for the Project at a fee not to exceed \$36,400.00 for such additional Professional Services as further described and set forth in CME's written proposal dated June 11, 2009 (the "Proposal"), such Proposal being attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # X-04-55-965-901; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire CME Associates to provide the required additional Professional Services for the Project in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, CME has previously completed and submitted a Business Entity Disclosure Certificate certifying that CME Associates has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute an Amendment to the Professional Services Contract, in a form legally acceptable to the Township Attorney, between CME Associates and the Township of Marlboro to provide the additional Professional Services (as described and defined hereinabove) for the Project (as described and defined hereinabove), in accordance with the Proposal (as defined hereinabove and attached hereto), pursuant to a non-fair and open process; and

BE IT FURTHER RESOLVED, that this Amendment to the Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$36,400.00 for such additional Professional Services for the Project as described in the Proposal; and

BE IT FURTHER RESOLVED, that the Business Entity Disclosure Certification shall be placed on file with this Resolution;

BE IT FURTHER RESOLVED, that a copy of the Amendment to the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, notice of award of this Amendment to the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. CME Associates, 1460 Route 9 South, Howell, NJ 07731
- b. Township Administrator

- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-49 (Change Order #1 - 2009 Road Improvements Program - AMC) was introduced by reference, offered by Councilwoman Mazzola, seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-49

A RESOLUTION AUTHORIZING AND APPROVING CHANGE ORDER #1 TO THE EXISTING CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND AMC INDUSTRIES, INC. FOR THE PROVISION OF SPECIFIED ROAD MATERIALS FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS (DPW)

WHEREAS, by Resolution #2009-34, the Township of Marlboro authorized the award of a contract to AMC Industries, Inc. for the 2009 Road Improvement Program (the "Project"); and

WHEREAS, Change Order No. 1 has been requested, which consists of the deletion of Project Bid Item #5, (the removal and replacement of the roadway base), which is work that is not required to complete the Project, and the addition of supplemental items of work, consisting of: (1) hot applied crack sealing/repair; (2) pavement repair membrane; (3) pavement joint adhesive; (4) drainage improvements to Wyncrest Drive; (5) construction of Type B Inlet and 150 Lf of 15" HDPE pipe; and (6) construction of Type B Inlet, Manhole and 84 LF of 15" HDPE Pipe (the "Additional Items") all of which are required to complete the paving work for the Project; and

WHEREAS, the deletions and additions in Change Order No. 1 have resulted in a decrease in the original contract total of \$884,433.90 to an adjusted contract total of \$884,247.50, a net decrease of \$186.40; and

WHEREAS, in a Letter dated January 6, 2010, the Township Engineer has recommended that Change Order No. 1 be approved; and

WHEREAS, the Township Council of the Township of Marlboro has reviewed the Township Engineer's January 6, 2010 Letter and is amenable to approving Change Order #1 in order that the Project be completed, such Project being in the interests of the public health, safety and welfare.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that Change Order #1 to the existing contract with AMC Industries, Inc., be and is hereby approved, decreasing the original contract total of \$884,433.90 to an adjusted contract total in an amount not to exceed \$884,247.50, a net decrease of \$186.40; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds which is attached hereto, that indicates that sufficient funds are available from Account No. 904-55-940-276 for the payment of Change Order #1; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. AMC Industries, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Engineer
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

Councilwoman Mazzola recused herself from Item #15 (Res. # 2010-50 - Bond Release K-Land 18 Assoc./Bellemont) and left the room.

The following Res. # 2010-50 (Bond Release K-Land 18 Assoc./Bellemont) was introduced as amended by reference, offered by Council Vice President Marder and seconded by Councilman Metzger. Discussion followed, after which the resolution as amended was passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, Mazzola).

RESOLUTION # 2010-50 (As Amended)

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE  
GUARANTEES FOR K-LAND 18 ASSOCIATES,  
BLOCK 178, LOT 290, MARLBORO, NEW JERSEY

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro has received a request for the release of Township held Performance Guarantees for public site improvements at the Bellemont Development known as Block 178, Lot 290, Marlboro, New Jersey, (the "Site") posted by K-Land Associates (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated December 21, 2009 regarding the completion of the public improvements at the Site, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the report recommends that the current Performance Guarantees, in the form of two (2) bonds (Bond Number SO42132 in the original amount of \$133,650.00 and present amount of \$40,095.00 and Bond Number SO4465 in the original amount of \$1,228,834.00 and present amount of \$368,650.20) and two (2) cash deposits (in the respective original amounts of \$14,850.00 and \$137,037.00 and the respective present cash amounts of \$4,455.00 \$41,111.10) posted by K-Land 18 Associates and being held by the Township, be released in their entirety, conditioned upon:

- (1) the payment of all outstanding inspection fee charges to time of the performance guarantee release; and
- (2) the Township's receipt of a letter from the Bellemont at Marlboro Condominium Association confirming that the Developer has satisfactorily fulfilled all of its obligations as to the Site; and

WHEREAS, the Township Council now wishes to take the following action regarding the aforesaid Performance Guarantees.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the above-described Performance Guarantees in the form of two (2) bonds (Bond Number SO42132 in the original amount of \$133,650.00 and present amount of \$40,095.00 and Bond Number SO4465 in the original amount of \$1,228,834.00 and present amount of \$368,650.20) and two (2) cash deposits (in the respective original amounts of \$14,850.00 and \$137,037.00 and the respective present cash amounts of \$4,455.00 \$41,111.10) posted by K-Land 18 Associates and being held by the Township, be released in their entirety, conditioned upon:

- (1) the payment of all outstanding inspection fee charges to time of the performance guarantee release; and
- (2) the Township's receipt of a letter from the Bellemont at Marlboro Condominium Association confirming that the Developer has satisfactorily fulfilled all of its obligations as to the Site; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. K-Land 18 Associates
- b. First Indemnity of American Insurance Co.
- c. Mayor Jonathan L. Hornik
- d. Township Business Administrator
- e. Township Engineer
- f. Chief Financial Officer
- g. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-51 (Bond Release Highland Meadows a/k/a Highland Point, Sections 2B & 3) was removed from the agenda.

The following Res. # 2010-52 (Bond Release Rite Aid - Amending Previous Resolution) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-52

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEES  
FOR THE RITE-AID SITE, BLOCK 225, LOT 195, MARLBORO, NEW JERSEY

WHEREAS, the Township Council of the Township of Marlboro adopted Resolution # 2009-398 on November 12, 2009, which Resolution authorized the release of all performance guarantees for the Rite-Aid Site located on Block 225, Lot 195, Marlboro, New Jersey (the "Site") that were posted by Martin Heller, Steiner Equities Group, LLC and 107 Route 79 Associates, LLC (hereinafter collectively, the "Developer") and being held by the Township; and

WHEREAS, the release of the aforesaid performance guarantees was conditioned upon: (1) the payment of all outstanding engineering inspection fee charges to the time of performance guarantee release; and (2) the posting of a two (2) year fifteen percent (15%) maintenance guarantee in the amount of \$82,771.73, in a form subject to the review and approval of the Township Attorney; and

WHEREAS, the Developer has requested that the maintenance guarantee be structured as follows:

- (1) a Letter of Credit (in a form to be reviewed and approved by the Township Attorney) in the amount of \$41,385.87; and

- (2) a cash bond amount of \$41,385.86, such amount to be taken from the current performance cash bond being held by the Township in the amount of \$51,181.15

for a total maintenance guarantee amount of \$82,771.73; and

WHEREAS, the Township Council is amenable to such proposed maintenance guarantee structure which is authorized by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that Resolution #2009-398, be and is hereby amended to reflect that the maintenance guarantee in the amount of \$82,771.73 be structured as follows:

- (1) a Letter of Credit (in a form to be reviewed and approved by the Township Attorney) in the amount of \$41,385.87; and
- (2) a cash bond amount of \$41,385.86, such amount to be taken from the current performance cash bond being held by the Township in the amount of \$51,181.15; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Martin Heller  
Steiner Equities Group, LLC  
107 Route 79 Associates, LLC
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. Township Engineer
- e. Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilman Metzger, seconded by Council Vice President Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor): Res. #2010-053 (Disabled Veteran Exemption B 312 L 111), Res. #2010-054 (Disabled Veteran Exemption B. 176.01 L 1), Res. #2010-055 (Overpayments for 2009 Taxes - Various), Res. #2010-056 (Redemption Tax Sale Certs - Various) and Res. #2010-057 (Raffle License Temple Rodeph Torah (Casino Night)).



RESOLUTION # 2010-53

WHEREAS, the Tax Assessor has granted a disabled veteran exemption for Neil Haimson, Block 312 Lot 111, located at 17 Alberta Drive,

WHEREAS, taxes were billed for the second half of 2009 in the amount of \$4,187.96,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to cancel the amount of \$4,187.96.

RESOLUTION # 2010-54

WHEREAS, the Tax Assessor has granted a disabled veteran exemption for Richard Bautista, Block 176.06 Lot 1, located at 4 Bluffs Court,

WHEREAS, taxes were billed for the second half of 2009 in the amount of \$5,384.25,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to cancel the amount of \$5,384.25.

RESOLUTION # 2010-55

WHEREAS, the attached list in the amount of \$21,348.41 known as Schedule "A", is comprised of amounts representing overpayments for 2009 taxes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund the above-mentioned overpaid amounts as per the attached Schedule "A",

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>2009 REFUND</u>
127	21	Gerald & Vicki Cevasco 24 Lloyd Road Morganville, NJ 07751	\$1,527.58
371	98	David Chelnik 40 Murray Hill Ter. 13550 Heathcote Blvd. Apt. 237 Gainesville, VA 20155	1,497.95

160	27	Frank D. & Lauren Perrini 23 Ridge Road Morganville, NJ 07751	218.00
413	33	Wells Fargo Home Mortgage MAC X2302-04D, Tax Dept. 1 Home Campus Des Moines, IA 50328 Assessed Owner: Mark Godek	1,185.90
157	3.12	First American Real Estate Tax Service 95 Methodist Hill Drive Suite 100 Rochester, NY 14623 Assessed Owner: Singh, Varinder M.& Deepinder Arora	12,708.00
11		Embry Farm Rd.	
413	33	Mark Godek 110 South Main Street Marlboro, NJ 07746	1,017.52
155	20.06	Michael Lee & & Denise L. Swartz 611 Seminole Drive Morganville, NJ 07751	25.35
178	2 C0447	Vincent & Maria Russo 447 Hancock Place Morganville, NJ 07751	871.49
350	16	John V. & Marlene A. Tona 1 Eaton Court Marlboro, NJ 07746	1,748.90
420	5	Anthony James & Pauline E. French 22 Moore Road Marlboro, NJ 07746	351.25
193.02	47	Lee G. & Jill M. Lipton 103 Briarcliff Drive Morganville, NJ 07751	196.47

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TOTAL: \$21,348.41

RESOLUTION # 2010-56

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$51,643.22 as per Schedule "A",

WHEREAS, the holders of the above-mentioned tax sale certificates are entitled to the amount of the sale plus interest and costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$51,643.22 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
09-5 Route 79	130          2	KMM Real Estate Investments, LLC 79 William Street Tinton Falls, NJ 07724	\$          263.69
09-7 278 Spring Valley Rd.	146          43	Royal Tax Lien Services, Inc. 179 Washington Lane Jenkintown, PA 19046	13,248.55
08-12 142 Amboy Rd.	172      33	Culmac Investors, Inc. Box 251 Monmouth Beach, NJ 07750	38,130.98
TOTAL:			<u>\$51,643.22</u>

RESOLUTION # 2010-057

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License RL: 1-10 be and it is hereby granted to Temple Rodeph Torah, 15 Mohawk Drive, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle (Non-draw -

Casino Night) will be held on March 3, 2010 from 7:30PM to 11:30PM at the Temple Rodeph Torah, 15 Mohawk Drive, Marlboro, New Jersey 07746.

The following Res. # 2010-59 (Authorizing execution of the American Plaza (Costco) Parking Facilities Agreement) was introduced by reference, offered by Councilwoman Mazzola, seconded by Council Vice President Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-59

A RESOLUTION AUTHORIZING EXECUTION OF A PARKING FACILITY AGREEMENT BETWEEN AMERICAN PLAZA, LLC AND THE TOWNSHIP OF MARLBORO IN CONNECTION WITH THE SITE PLAN APPROVAL FOR BLOCK 176, LOTS 5.01, 5.02, 9, 10 AND 11, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY, AND BLOCK 21002, LOT 6, TOWNSHIP OF OLD BRIDGE, MIDDLESEX COUNTY, NEW JERSEY

WHEREAS, ON June 6, 2007, the Planning Board of the Township of Marlboro adopted a resolution granting Final Major Site Plan Approval for the site located on property known as Block 176, Lots 5.01, 5.02, 9, 10 and 11, on the Official Tax Map of the Township of Marlboro, Monmouth County New Jersey and on Block 21002, Lot 6 on the Official Tax Map of the Township of Old Bridge, Middlesex County, New Jersey; and

WHEREAS, the Planning Board Resolution conditioned the approval upon the Developer entering into, among other items, an agreement with the Township of Marlboro regarding the provision and maintenance of commuter parking stalls (located on property known as Block 176, Lot Numbers 5.02, 9, 10 & 11, Marlboro Township, New Jersey the "Parking Facility Agreement"); and

WHEREAS, the Parking Facility Agreement has been negotiated by the parties, and the negotiation and preparation of same shall be paid for from Developer's escrow account held by the Township of Marlboro; and

WHEREAS, any applicable performance guarantees, cash deposits and/or insurance certificates in connection with the Parking Facility Agreement shall be subject to the review and approval of the Township Attorney.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro that the Mayor and Township Clerk be and are

hereby authorized to execute the Parking Facility Agreement between the Township of Marlboro and American Plaza, LLC, the negotiation and preparation of which shall be paid for from the Developer's escrow account held by the Township of Marlboro; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. American Plaza, LLC, Salvatore Alfieri, Esq.
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. Township Engineer
- e. Chief Financial Officer
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2010-60 (Authorizing Amendment to Contract with Banisch Associates, Inc.) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-060

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT BETWEEN BANISCH ASSOCIATES, INC., AND THE TOWNSHIP OF MARLBORO FOR PLANNING SERVICES IN CONNECTION WITH LITIGATION CHALLENGING ORDINANCE #2006-15

WHEREAS, the Township of Marlboro and Banisch Associates, Inc., (the "Contractor") have previously entered into a Professional Services Contract, awarded by Resolution #2007-88 pursuant to a non-fair and open process to prepare a planning report and expert testimony in connection with litigation filed against the Township challenging Ordinance #2006-15 for an amount not to exceed \$25,000.00; and

WHEREAS, subsequent to the award of this contract, additional parties joined the litigation against the Township and the Township Attorney has recommended that the Contract be amended to expand the scope of services to include the preparation of an additional planner's report and deposition testimony in connection with the Stattel Farm litigation (the "Additional Services"); and

WHEREAS, the Contractor has provided the Township Attorney with a proposal dated January 19, 2010 which provides the Contractor's estimated cost for services and hourly rates for providing the

additional planner's report and deposition testimony in connection with the Stattel Farm litigation in an amount that the Township Attorney estimates will not exceed an additional \$10,000.00; and

WHEREAS, the value of the Contract will exceed \$17,500.00 in the aggregate and the Chief Financial Officer has certified that funds are available for this purpose from Account #0-01-050-283; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township to amend the contract of Contractor to provide the Additional Services described and defined hereinabove; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefor, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, the Contractor has completed and submitted a Business Entity Disclosure Certificate certifying that it has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Section 26 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the Professional Services Contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that the Mayor is hereby authorized to execute a Professional Services Contract Amendment, in a form legally acceptable to the Township Attorney, between Banisch Associates, Inc., and the Township of Marlboro to provide the above described and defined Professional Services, pursuant to a non-fair and open process; and

BE IT FURTHER RESOLVED, that this Professional Services Contract Amendment is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide that the total fee for the Additional Services as described hereinabove shall not to exceed \$10,000.00; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for the Professional Services Contract Amendment, which is attached hereto, and that sufficient funds are available for said contract from Account Number #0-01-050-283; and

BE IT FURTHER RESOLVED, that a copy of the Professional Services Contract Amendment and this Resolution shall be made available for public inspection in the Township Clerk's Office; and

BE IT FURTHER RESOLVED, notice of award of this Professional Services Contract Amendment shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. Banisch Associates, Inc.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2010-61 (Authorizing purchase of Copier - State Contract) was introduced by reference, offered by Councilman Metzger, seconded by Council President LaRocca and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-61

A RESOLUTION AUTHORIZING THE LEASE/PURCHASE OF ONE  
(1) SAVIN 9060SP COPIER AND ONE (1) SAVIN 9040SP  
COPIER FOR THE MARLBORO TOWNSHIP POLICE DEPARTMENT  
PURSUANT TO STATE CONTRACT # A-51464

WHEREAS, the Township of Marlboro Police Department has requested that the Township lease/purchase one (1) Savin 9060SP Copier and one (1) Savin 9040SP Copier from Ricoh Americas' Corporation c/o Atlantic Business Products, 134 W. 26<sup>th</sup> Street, New York, New York 10001, under State Contract #A-51464, as more fully specified in the proposal, attached hereto and made a part hereof, for a total amount not to exceed \$399.20 per month for a 60 month term; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to provide said reprographic equipment for the Marlboro Township Police Department; and

WHEREAS, funds are available for the 2010 year from Account Number 0-01- -106-276 for the amount of \$4,790.40 and have been certified to by the Chief Financial Officer of the Township of Marlboro. The funds for the remainder of the contract will be certified on an annual basis.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to lease/purchase one (1) Savin 9060SP Copier and one (1) Savin 9040SP Copier from Ricoh Americas' Corporation c/o Atlantic Business Products, 134 W. 26<sup>th</sup> Street, New York, New York 10001, under State Contract #A-51464, for a total amount not to exceed \$399.20 per month for a 60 month term; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Ricoh Americas' Corporation c/o Atlantic Business Products, 134 W. 26<sup>th</sup> Street, New York, NY 10001
- b. Township Administrator
- c. Township Police Department
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

At 9:30PM, Councilman Metzger moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Councilwoman Mazzola, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Cantor).

The following Res. # 2010-58 (Closed Session) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

#### RESOLUTION # 2010-58

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 21<sup>st</sup> day of January, 2010 to go into executive session for the purpose of discussing those items that are



particularly exempted from the Open Public Meetings Act,  
namely litigation.

BE IT FURTHER RESOLVED that the governing body shall  
adjourn to executive session for the purpose of discussing  
said aforementioned items and that such executive session  
should take approximately 15 minutes. Those items  
discussed in executive session shall remain confidential  
until such time as confidentiality is no longer required.  
Action may be taken following the executive session.

At 9:40PM, Council President LaRocca moved that the meeting  
be opened. This was seconded by Councilman Metzger, and as  
there was no objection, the Clerk was asked to cast one  
ballot.

At 9:42PM, Council President LaRocca moved that the meeting be  
adjourned. This was seconded by Councilman Metzger, and as there  
was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: February 18, 2010

OFFERED BY: Mazzola AYES: 4

SECONDED BY: Marder NAYS: 0

ABSENT: Cantor

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ALIDA MANCO,  
MUNICIPAL CLERK

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FRANK LARocca,  
COUNCIL PRESIDENT